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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/076,660

02/15/2002

Robert Lance Cook

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9727

62519 7590 03/14/2008

HAYNES AND BOONE, LLP  
901 MAIN STREET  
SUITE 3100  
DALLAS, TX 75202-3789

EXAMINER

LEE, CLOUD K

ART UNIT

PAPER NUMBER

3753

MAIL DATE

DELIVERY MODE

03/14/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/076,660	<b>Applicant(s)</b> COOK ET AL.	
	<b>Examiner</b> CLOUD K. LEE	<b>Art Unit</b> 3753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 January 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 7, 17, 19 and 21-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7, 17, 19 and 21-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                      |                                                                   |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____                                                          | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/28/08 has been entered.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

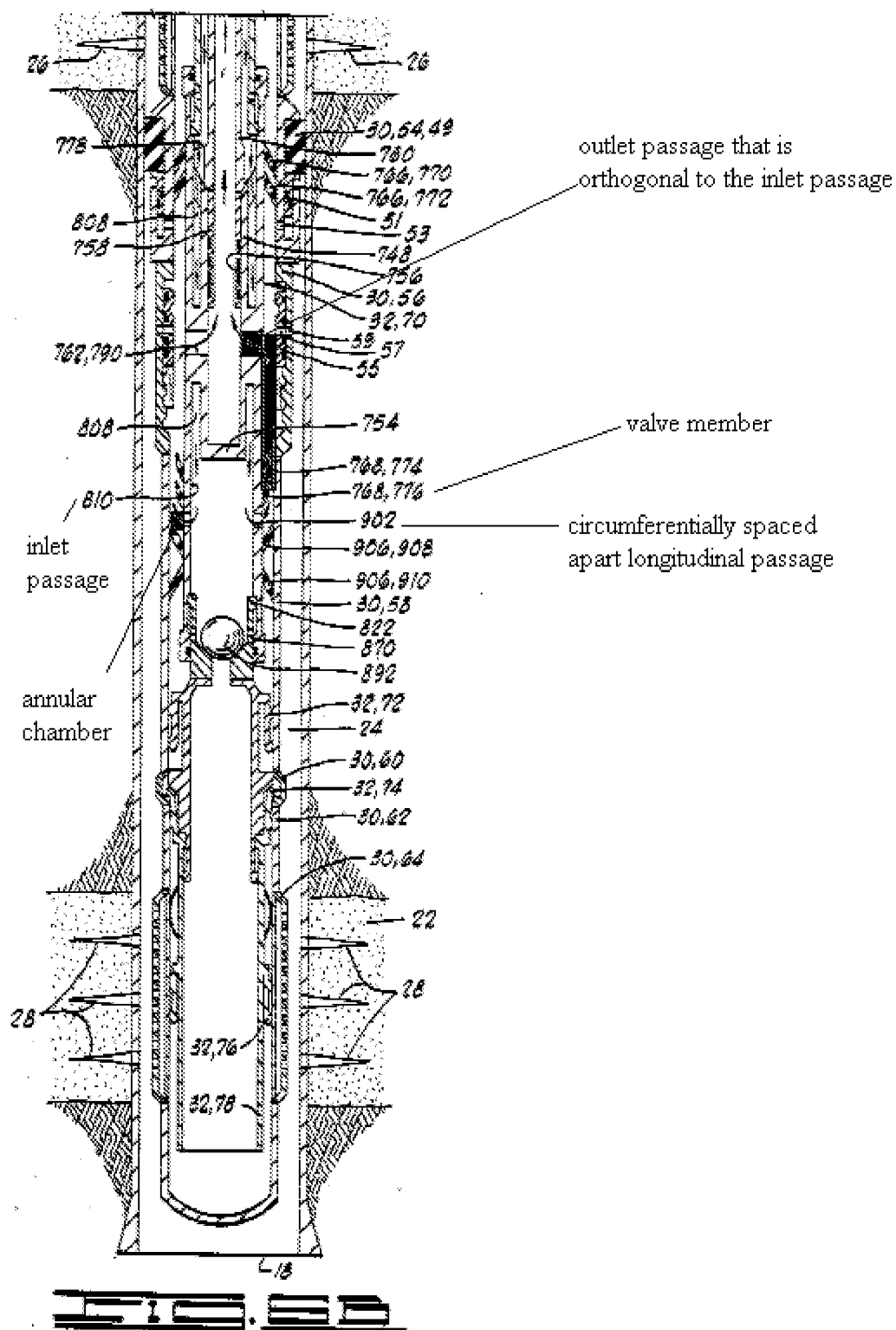
3. Claims 7, 17, 19, 21-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Szarka (US Patent No. 4,627,488).

Szarka discloses a method of controlling the flow of fluidic materials comprising an injecting fluidic materials into the inlet passage (810), blocking the inlet passage (892) with a ball plug (892), conveying the injected fluidic materials radially out of the inlet passage (see figure 6B) into a plurality of circumferentially spaced apart longitudinal passages (902) defined in the tubular housing and into an annular chamber defined in the tubular housing that surrounds the inlet passage (annular space between 902 and 768), opening the outlet passage to permit

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fluidic materials within the inlet passage and the annular chamber to be conveyed out of the housing (see figure 6B element 768, 785 and 776, also see Col 16 lines 56-68, and the ball valve 348), wherein the method further comprising preventing debris from entering the annular chamber (by using screen means 64), wherein the method further comprising detecting the operating pressure of the injected fluidic materials, and if the detected operating pressure of the injected fluidic materials exceeds a predetermined amount (see Col 16 lines 56-68, when the pressure in the annular chamber exceeds the biasing force or predetermined amount, the check valve 768, 776 will open and allow injected fluidic material to flow to the outlet passage 762 and 790) then opening the outlet passages (760 and 790), wherein the operating pressure is remotely detected by the check valve (768 and 776). Szarka further discloses the method to include an operating procedure that when if the detected operating pressure of the injected fluidic materials exceeds about 500 to 3000 psi (see Col 19 lines 19-23), then displacing valve members (see Col 19 lines 36-43) positioned within corresponding longitudinal valve chambers defined in the tubular housing, wherein the method further includes controlling the rate at which the fluidic materials are conveyed out of the tubular housing through the outlet passages using variable orifices when the valve members (768, 774 and 768) are displaced in a variable position and created a variable orifices, wherein the outlet passages (between 762 or 792 and the annular chamber, please see figure below) are orthogonal to the inlet passage (see 902). Please also see figure in this Office Action.

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***Response to Arguments***

4. Applicant's arguments filed 1/28/08 have been fully considered but they are not persuasive.

In response to applicant's argument that Szarka's reference fails to disclose a circumferentially spaced apart longitudinal passages. The Examiner disagrees. Szarka's reference clearly discloses circumferentially spaced apart longitudinal passages (902). Applicants admitted Szarka's reference shows a plurality of radially spaced apart longitudinal passages (see Remark page 7 filed on 1/28/08). In other words, applicants admitted that Szarka's reference discloses a method of "conveying the injected fluidic materials **radially** out of the inlet passage into a plurality of spaced apart longitudinal passages" by having a radially spaced apart longitudinal passages. The definition of circumferentially is "around the circumference, or periphery, of circular or cylindrical object", and Szarka's reference clearly shows a spaced apart longitudinal passages around the cylindrical body, therefore, Szarka's reference meets the claims.

In response to applicant's argument that Szarka's reference fails to show the outlet passages are orthogonal to the inlet passage, please refer to the figure above. Szarka's reference shows the outlet passages (790 and 762 with filled portion as shown in figure) are orthogonal to the inlet passage (810)

***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CLOUD K. LEE whose telephone number is (571)272-7206. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (571)272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John Rivell/  
Primary Examiner, Art Unit 3753

CL